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10 COUNTY OF LOS ANGELES, et al.

**Public Entity
Exempt from Filing Fee**

11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 ALLEN BERNARD SHAY,

14 *Plaintiff,*

15 vs.

16 COUNTY OF LOS ANGELES, LOS

17 ANGELES COUNTY SHERIFF'S

18 DEPARTMENT, DEPUTY

19 CHRISTOPHER DERRY, and DOES 1
20 through 10,

21 *Defendants.*

CASE NO.: CV15-4607 CAS (RAOx)

[Hon. Christina A. Snyder

Courtroom 5]

Complaint Filed: June 23, 2015

**DEFENDANTS' EX PARTE
MOTION FOR AN ORDER
STAYING THE PROCEEDINGS
FOR 3 MONTHS INCLUDING THE
DISCOVERY CUT OFF DATE,
MOTION CUT-OFF DATE, TRIAL
AND ALL TRIAL RELATED
DATES; DECLARATION OF
DAVIDA M. FRIEMAN**

**DEFENDANTS' EX PARTE MOTION FOR AN ORDER STAYING THE
PROCEEDINGS FOR 3 MONTHS INCLUDING THE DISCOVERY CUT OFF DATE,
MOTION CUT-OFF DATE, TRIAL AND ALL TRIAL RELATED DATES;
DECLARATION OF DAVIDA M. FRIEMAN**

1 **TO THE COURT PLAINTIFF AND TO HIS ATTORNEYS OF**
2 **RECORD HEREIN:**

3 **PLEASE TAKE NOTICE** that Defendants **COUNTY OF LOS**
4 **ANGELES, LOS ANGELES COUNTY SHERIFF'S DEPARTMENT** and
5 **CHRISTOPHER DERRY** hereby submit the following Ex Parte Motion for
6 an Order Staying the Proceedings for 3 Months Including the Discovery Cut
7 Off Date, Motion Cut-off Date, Trial and All Trial Related Dates.

8 This Ex Parte Application is brought with good cause and on the grounds
9 that Defendants' lead counsel Ms. Davida Frieman's grandfather was diagnosed
10 with stage 4 colon cancer last week and has recently entered home hospice due
11 to the terminal prognosis. Ms. Frieman is one of the two primary people
12 responsible for her grandfather's home hospice care. Ms. Frieman is requesting
13 a three month stay of the current litigation so that she can attend to the issues
14 related to her grandfather's illness including but not limited to taking time off to
15 attend to issues related to his 24 hour a day care.

16 There have not been any other stays requested or granted in this matter.

17 Defendants' *ex parte* application is based on this application, the supporting
18 Memorandum of Points and Authorities, the declaration of Davida M. Frieman, the
19 pleadings and papers already on file in this action.

20 **NOTICE** - On September 12, 2016, Ms. Frieman informed Plaintiff's
21 counsel Mr. John Burton via telephone of this instant motion.

22 **MOTION NOT OPPOSED** – Plaintiff does not oppose the motion for the
23 stay.
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**DEFENDANTS' EX PARTE MOTION FOR AN ORDER STAYING THE
PROCEEDINGS FOR 3 MONTHS INCLUDING THE DISCOVERY CUT OFF DATE,
MOTION CUT-OFF DATE, TRIAL AND ALL TRIAL RELATED DATES;
DECLARATION OF DAVIDA M. FRIEMAN**

1 The address, contact information, and email address of Plaintiff's counsel is
2 set forth below:

3 The Law Offices of John Burton
4 128 North Fair Oaks Avenue
5 Pasadena, California 91103
6 Tel: (626) 449-8300; Fax (626) 449-8197

7 **Good cause** exists to grant the instant motion on an ex parte basis because
8 due to the nature of the situation (as explained herein), time is of the essence.
9

10 Dated: September 12, 2016

IVIE, McNEILL & WYATT

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12 **By:** /s/ Davida M. Frieman
13 **RICKEY IVIE**
14 **DAVIDA M. FRIEMAN**
15 Attorneys for Defendants,
16 County of Los Angeles, et al.
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27 - 3 -

28 **DEFENDANTS' EX PARTE MOTION FOR AN ORDER STAYING THE
PROCEEDINGS FOR 3 MONTHS INCLUDING THE DISCOVERY CUT OFF DATE,
MOTION CUT-OFF DATE, TRIAL AND ALL TRIAL RELATED DATES;
DECLARATION OF DAVIDA M. FRIEMAN**

MEMORANDUM OF POINTS AND AUTHORITIES

I. LEGAL AUTHORITY FOR AN EXPARTE APPLICATION

Ex parte applications are authorized pursuant to L.R. 7-19 et seq. which provides in relevant part that the attorney applying for *ex parte* relief shall have a duty to (a) to make reasonable, good faith efforts orally to advise counsel for all other parties, if known, of the date and substance of the proposed *ex parte* application and (b) to advise the Court in writing and under oath of efforts to contact other counsel and whether any other counsel, after such advice, opposes the application.

II. GOOD CAUSE EXISTS FOR A BRIEF 3 MONTH STAY OF THE PROCEEDINGS INCLUDING THE DISCOVERY CUT OFF DATE, MOTION CUT-OFF DATE, TRIAL AND ALL TRIAL RELATED DATES

On or about September 6, 2016, Defendant's lead counsel Ms. Frieman was informed by her grandfather's doctor that her grandfather was terminally ill with Stage 4 colon cancer. Due to the extreme nature and extent of his health issues, Ms. Frieman's grandfather requires around the clock home hospice care. Ms. Frieman is one of two primary people responsible for the home hospice care of her grandfather. There are numerous important issues related to her grandfather that Ms. Frieman must focus on and attend to at this time. Ms. Frieman is requesting a brief three month stay of the Shay matter to allow her the time to focus on and attend to her grandfather's care.

1 **III. CONCLUSION**

2 Defendants respectfully request that the Court grant the relief requested
3 herein.

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6 Dated: September 12, 2016

IVIE, McNEILL & WYATT

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8 By: /s/ *Davida M. Frieman*
9 Rickey Ivie,
10 Davida M. Frieman,
11 Attorneys for Defendants,
12 COUNTY OF LOS ANGELES, et al.
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28 **DEFENDANTS' EX PARTE MOTION FOR AN ORDER STAYING THE
PROCEEDINGS FOR 3 MONTHS INCLUDING THE DISCOVERY CUT OFF DATE,
MOTION CUT-OFF DATE, TRIAL AND ALL TRIAL RELATED DATES;
DECLARATION OF DAVIDA M. FRIEMAN**

DECLARATION OF DAVIDA M. FRIEMAN

I, Davida M. Frieman, declare as follows:

1. I am an attorney at the law firm Of Ivie, McNeill & Wyatt Counsel of record for Defendants the County of Los Angeles, the Los Angeles Sheriff's Department and Detective Christopher Derry. I am licensed to practice law in the State of California and before this Court. I have personal knowledge of the facts stated in this declaration and if called as a witness, could competently testify to these facts.

2. I am lead trial counsel in the instant matter.

3. On or about September 6, 2016, I was informed by my grandfather's doctor that he was terminally ill with stage 4 colon cancer.

4. On or about September 12, 2016, my grandfather was discharged from the hospital and sent home for hospice care.

5. Due to the extreme nature and extent of his health issues, my grandfather requires around the clock home hospice care.

6. I am one of two primary people responsible for the home hospice care of my grandfather.

7. There are numerous important issues related to my grandfather that I must focus on and attend to at this time.

8. I am requesting a brief three month stay of the Shay matter to allow me the time to attend to and focus on my grandfather's care.

9. There have been no other stays requested or granted in this matter.

10. Plaintiff will not be prejudiced by a brief three month stay.

11. Plaintiff's counsel Mr. Burton has indicated that he does not oppose the stay.

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1 I declare under the penalty of perjury under the laws of the United States and
2 the State of California that the foregoing is true and correct. Executed this 12th day
3 of September 2016.

4 /s/ ***Davida M. Frieman***
5 Davida M. Frieman
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